

109TH CONGRESS  
2D SESSION

# H. R. 5554

To amend the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977 to prohibit the promulgation of safety and health standards that do not meet certain requirements for national consensus standards.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2006

Mr. NORWOOD (for himself, Mrs. MILLER of Michigan, Mr. WICKER, and Mr. TIAHRT) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977 to prohibit the promulgation of safety and health standards that do not meet certain requirements for national consensus standards.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Workplace Safety and  
5       Health Transparency Act of 2006”.

1 **SEC. 2. ADOPTION OF NONGOVERNMENTAL STANDARDS**  
2 **UNDER THE OCCUPATIONAL HEALTH AND**  
3 **SAFETY ACT.**

4 (a) ADOPTION BY OSHA.—The Occupational Health  
5 and Safety Act of 1970 (29 U.S.C. 651 et seq.) is amend-  
6 ed by adding after section 6 the following:

7 “ADOPTION OF NONGOVERNMENTAL STANDARDS

8 “SEC. 6A. (a) Effective on the date of enactment of  
9 this section, the Secretary shall not promulgate or incor-  
10 porate by reference any finding, guideline, standard, limit,  
11 rule, or regulation based on a determination reached by  
12 any organization, unless the Secretary affirmatively finds  
13 that such determination—

14 “(1) has been adopted and promulgated by a  
15 nationally recognized standards-producing organiza-  
16 tion under procedures whereby it can be determined  
17 by the Secretary that persons interested and affected  
18 by the scope or provisions of the standard have  
19 reached substantial agreement on its adoption;

20 “(2) was formulated in a manner which af-  
21 forded an opportunity for diverse views to be consid-  
22 ered; and

23 “(3) has been designated as such a standard by  
24 the Secretary, after consultation with other appro-  
25 priate Federal agencies.

1       Such finding and a summary of its basis shall be  
2       published in the Federal Register and shall be con-  
3       sidered a final action subject to review by a United  
4       States District Court in accordance with section 706  
5       of title 5, United States Code.

6       “(b) With respect to rulemaking proceedings initiated  
7       by the Secretary but not finalized prior to the date of en-  
8       actment of this section, the Secretary shall, within 180  
9       days of the date of enactment of this section, investigate  
10      and identify the use of, influence of, or reliance upon any  
11      finding, guideline, standard, limit or any other rec-  
12      ommendation that has not been made by an organization  
13      and procedure that does not comply with the requirements  
14      set forth in subsection (a). The Secretary shall publish the  
15      results of such investigations in the Federal Register and,  
16      in any final rule, standard, or official recommendation  
17      that is prescribed under such proceedings, shall not incor-  
18      porate, use, or rely upon any finding, guideline, standard,  
19      limit, or other recommendation that does not comply with  
20      the requirements set forth in subsection (a). The Sec-  
21      retary’s actions under this section shall be subject to re-  
22      view by a United States district court of appropriate juris-  
23      diction.”.

1 (b) APPROVAL OF STATE PLANS.—Section 18 of the  
2 Occupational Safety and Health Act of 1970 (29 U.S.C.  
3 667) is amended by adding at the end the following:

4 “(i) The Secretary shall not approve a State plan  
5 under this section that incorporates by reference any find-  
6 ing, guideline, standard, limit, rule, or regulation based  
7 on a determination reached by any organization, unless  
8 the Secretary determines that the standards adopted in  
9 such plan are standards that—

10 “(1) have been adopted and promulgated by a  
11 nationally recognized standards-producing organiza-  
12 tion under procedures whereby it can be determined  
13 by the State that persons interested and affected by  
14 the scope or provisions of such standards have  
15 reached substantial agreement on their adoption;  
16 and

17 “(2) were formulated in a manner which af-  
18 farded an opportunity for diverse views to be consid-  
19 ered.”.

20 **SEC. 3. ADOPTION OF NONGOVERNMENTAL STANDARDS**  
21 **UNDER THE FEDERAL MINE SAFETY AND**  
22 **HEALTH ACT.**

23 Section 101 of the Federal Mine Safety and Health  
24 Act of 1977 (30 U.S.C. 811) is amended by adding at  
25 the end the following:

1       “(f)(1) Effective on the date of enactment of this sec-  
2 tion, the Secretary shall not promulgate or incorporate by  
3 reference any finding, guideline, standard, limit, rule, or  
4 regulation based on a determination reached by any orga-  
5 nization, unless the Secretary affirmatively finds that such  
6 determination—

7           “(A) has been adopted and promulgated by a  
8 nationally recognized standards-producing organiza-  
9 tion under procedures whereby it can be determined  
10 by the Secretary that persons interested and affected  
11 by the scope or provisions of the standard have  
12 reached substantial agreement on its adoption;

13           “(B) was formulated in a manner which af-  
14 farded an opportunity for diverse views to be consid-  
15 ered; and

16           “(C) has been designated as such a standard by  
17 the Secretary, after consultation with other appro-  
18 priate Federal agencies.

19 Such finding and a summary of its basis shall be published  
20 in the Federal Register and shall be considered a final  
21 action subject to review by a United States District Court  
22 in accordance with section 706 of title 5, United States  
23 Code.

24       “(2) With respect to rulemaking proceedings initiated  
25 by the Secretary but not finalized prior to the date of en-

1 actment of this subsection, the Secretary shall, within 180  
2 days of the date of enactment of this subsection, inves-  
3 tigate and identify the use of, influence of, or reliance  
4 upon any finding, guideline, standard, limit or any other  
5 recommendation that has not been made by an organiza-  
6 tion and procedure that does not comply with the require-  
7 ments of paragraph (1). The Secretary shall publish the  
8 results of such investigations in the Federal Register and,  
9 in any final rule, standard, or recommendation that is pre-  
10 scribed under such proceedings, shall not incorporate, use,  
11 or rely upon any finding, guideline, standard, limit, or  
12 other official recommendation that does not comply with  
13 the requirements of paragraph (1). The Secretary's ac-  
14 tions under this section shall be subject to review by a  
15 United States district court of appropriate jurisdiction.".

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